

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY  D.C.

05 AUG 26 AM 6:44

THOMAS M. GOULD  
CLERK, U.S. DISTRICT COURT  
W/D OF TN, MEMPHIS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EULIBES L. CRUZ,

Defendant.

X  
X  
X  
X  
X  
X  
X  
X  
X  
X  
X  
X

Cv. No. 04-2890-Ma/V

Cr. No. 02-20146-Ma

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ORDER GRANTING MOTION TO DISMISS WITHOUT PREJUDICE

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Defendant Eulibes L. Cruz, Bureau of Prisons inmate registration number 18356-076, an inmate at the Federal Correctional Institution in Forrest City, Arkansas, filed a pro se motion pursuant to 28 U.S.C. § 2255 on November 3, 2004, accompanied by a legal memorandum. On December 20, 2004, Cruz filed a motion seeking leave to proceed in forma pauperis. On March 29, 2005, Cruz filed a supplement to his motion. Cruz submitted a second supplemental motion, which he characterizes as an attachment to his previous supplement, on April 15, 2005. On May 12, 2005, May 24, 2005, and June 16, 2005, Cruz filed a inquiries concerning the status of the case. On July 15, 2005, Cruz filed a motion seeking to voluntarily dismiss this action without prejudice in light of the fact that the Sixth Circuit had remanded the case back to this Court for resentencing in light of United States v. Booker, 125 S. Ct. 758 (2005).

For good cause shown, the motion to dismiss without prejudice is GRANTED.

IT IS SO ORDERED this 25<sup>th</sup> day of August, 2005.

A handwritten signature in black ink, appearing to read 'S. H. Mays, Jr.', written over a horizontal line.

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SAMUEL H. MAYS, JR.  
UNITED STATES DISTRICT JUDGE



## Notice of Distribution

This notice confirms a copy of the document docketed as number 10 in case 2:04-CV-02890 was distributed by fax, mail, or direct printing on August 31, 2005 to the parties listed.

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Honorable Samuel Mays  
US DISTRICT COURT